

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

RAY GORE

v.

QUALITY CARRIERS, INC., AND  
BENNIE ORCUTT

§  
§  
§  
§  
§  
§

Civil Action No.: \_\_\_\_\_

Jury Trial Demanded

**NOTICE OF REMOVAL**

Defendant, Quality Carriers, Inc., files its Notice of Removal of this dispute to the United States District Court for the Southern District of Texas, Houston Division, and respectfully would show as follows:

**I. GROUNDS FOR REMOVAL**

1. This case is removable to this Court based on diversity jurisdiction pursuant to 28 U.S.C. § 1332(a).
2. Plaintiff is a resident of Liberty County, Texas.
3. Quality Carriers, Inc. is an Illinois corporation. Bennie Orcutt is a resident of Florida.
4. As described more fully below, Plaintiff seeks to recover an amount in excess of \$75,000, excluding interest and costs, from Quality Carriers, Inc. and Orcutt in a state court action.

**II. PENDING STATE SUIT**

5. On May 14, 2015, plaintiff filed a civil action against Quality Carriers, Inc. and Bennie Orcutt in Cause No. 2015-28043; *Ray Gore v. Quality Carriers, Inc. and Bennie Orcutt*; in the 80th Judicial District Court of Harris County, Texas. This is a personal injury dispute wherein plaintiff alleges severe personal injuries requiring medical treatment.

6. The name and address of the court from which the case is being removed is:

80th Judicial District Court  
Harris County Courthouse  
201 Caroline, 9<sup>th</sup> Floor  
Houston, Texas 77002

### **III. STATE COURT DOCUMENTS**

7. The following documents are attached to this Notice of Removal:

Exhibit “A” Plaintiff’s Original Petition

Exhibit “B” Citation to Quality Carriers, Inc. and Email String noting agreement of parties on acceptance of service on behalf of Quality Carriers Inc.

Exhibit “C” Certified copy of the state court Docket Sheet

Exhibit “D” List of all counsel of record, including addresses, telephone number, and the parties they represent, respectively

### **IV. TIMING OF REMOVAL**

8. Quality Carriers, Inc. was served with Plaintiffs’ petition on or about May 19, 2015. This Notice of Removal is being filed within 30 days of service of the petition upon Quality Carriers, Inc. and is timely filed under 28 U.S.C. § 1446(b).

### **V. PLAINTIFF’S PETITION ESTABLISHES DIVERSITY JURISDICTION**

9. In plaintiff’s original state court petition, he claims severe personal injuries requiring medical treatment.

10. Plaintiff, a resident of Texas, brought suit against Quality Carriers, Inc., an Illinois corporation and Orcutt, an individual residing in Florida, seeking recovery for these alleged personal injuries and damages.

11. As part of his suit, plaintiff correctly establishes the diversity of the parties. Because plaintiff and Quality Carriers, Inc. and plaintiff and Orcutt are citizens of different states

and because plaintiff seek to recover an amount exceeding \$75,000 (excluding interest and costs), removal is proper under 28 U.S.C. § 1332(a).

#### **VI. CONSENT**

12. Bennie Orcutt consents to this removal.

#### **VII. VENUE**

13. Under 28 U.S.C. § 1441(a), venue for a removed action is proper in this Court as the 80th Judicial District Court of Harris County, Texas, where the state action is pending, is located within this district and division.

#### **VIII. NOTICE TO ADVERSE PARTIES AND TO STATE COURT**

14. As the removing party, Quality Carriers, Inc. will give plaintiff prompt written notice of this Notice of Removal as required by 28 U.S.C. § 1446(d).

15. Quality Carriers, Inc. will also file a copy of this Notice of Removal with the 80th Judicial District Court of Harris County, Texas, where the state court action is currently pending, as required by 28 U.S.C. § 1446(d).

#### **IX. JURY DEMAND**

16. A jury was demanded in state court.

#### **X. ANSWER**

17. Quality Carriers, Inc. has not filed any responsive pleadings in the state court action, except the Notice of Removal as required by the FRCP. Quality Carriers, Inc. is filing its answer to plaintiff's lawsuit contemporaneously herewith.

#### **XI. PRAYER**

For these reasons and in conformity with 28 U.S.C. § 1446, Quality Carriers, Inc. respectfully removes the civil action styled Cause No. 2015-28043; *Ray Gore v. Quality*

*Carriers, Inc. and Bennie Orcutt*; in the 80th Judicial District Court of Harris County, Texas. Quality Carriers, Inc. prays for such other and further relief, both general and special, at law and in equity, to which it may show itself justly entitled.

Respectfully submitted,

/s/ Les Pickett

Les Pickett

Federal I.D. No. 14306

State Bar No. 15980520

Ron T. Capehart

Federal I.D. No. 23850

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OF COUNSEL:

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**ATTORNEYS FOR DEFENDANT,**

**QUALITY CARRIERS, INC.**

**CERTIFICATE OF SERVICE**

This will certify that a true and correct copy of the foregoing has been served upon all counsel of record by the Southern District of Texas e-file system. If counsel is not a registered user of the system, then service will be made by certified mail, return receipt requested. All manner of service will be made on June 3, 2015.

***Via CM/RRR 9171 9690 0935 0056 8025 25***

Julian Fertitta, III  
GRIMES & FERTITTA  
440 Louisiana, Suite 1818  
Houston, Texas 77002

*/s/ Les Pickett*

Les Pickett  
Ron T. Capehart